



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNC, CNR, RPP, LRE, LAT, AS, O

Introduction

This hearing dealt with an application by the tenant for a number of orders. Both parties participated in the conference call hearing.

The issue of jurisdiction was addressed as a preliminary issue and for the reasons outlined below, the substance of the application was not heard.

Issue to be Decided

Does this living arrangement fall under the jurisdiction of the *Residential Tenancy Act*?

Background and Evidence

The parties are brothers and agreed that the residential property in question was at one time owned by their mother. The mother passed away and the respondent was named as the executor under her will. The parties agreed that the parties are both beneficiaries under the terms of the will and that the brother acting as the executor is currently in the process of selling the residential property so the proceeds can be divided.

Analysis

In order for a tenancy to fall within the jurisdiction of the Act, the tenant cannot have more than a mere right to occupy the property. In this case, it is clear that the tenant has a beneficial interest in the property and for that reason, I find that the relationship between the parties is one which falls outside the jurisdiction of the Act.

Conclusion

For the above reasons, I decline jurisdiction.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 17, 2012

Residential Tenancy Branch